

**RESOLUTION NO. 08-132**

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING THE FIRST AMENDMENT TO THE JOINT PARTICIPATION AGREEMENT FOR THE REVERSE OSMOSIS WATER TREATMENT PLANT BETWEEN THE CITY OF HIALEAH AND MIAMI-DADE COUNTY AND AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO EXECUTE THE AGREEMENT, A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1".

**WHEREAS**, on December 27, 2007, the parties entered into a Joint Participation Agreement for the planning, design, construction and operation of a 10 mgd Reverse Osmosis Water Treatment Plant, expandable to 17 mgd, to serve future water supply needs in the City's Annexation Area and the Miami-Dade Water and Sewer Department's service area; and

**WHEREAS**, the parties agree to enter into a First Amendment to the Joint Participation to amend the agreement to reflect circumstances that occurred after the date of the Joint Participation, most particularly, because the County, not the City as original contemplated, agreed to provide the land for the site of the Reverse Osmosis Treatment Plant, the parking areas, landscaped areas, green spaces, rights-of-ways, stormwater retention areas, wellfields, storage tanks, security facilities and other connected uses; and

**WHEREAS**, the First Amendment to the Joint Participation Agreement provides credit for the fair market value of the land conveyed from the County to the City, less right-of-ways; that each party is responsible for 50% of any wetlands mitigation payments in connection with the use and ownership of the land, and that the County shall receive credit for financing costs in the same manner that the City is provided such credit towards their respective 50% contribution towards the cost of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this resolution are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 1:** The foregoing facts and recitations contained in the preamble to this resolution are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2:** The City of Hialeah, Florida hereby approves the First Amendment to the Joint Participation Agreement between the City of Hialeah and Miami-Dade County, Florida and further authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to execute the agreement, a copy of which is attached hereto and made a part hereof as Exhibit "1".

PASSED AND ADOPTED this 23rd day of September, 2008.

\_\_\_\_\_  
Esteban Bovo  
Council President

Attest:

\_\_\_\_\_  
Rafael E. Granado, City Clerk

Approved on this 24 day of September, 2008.

\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

\_\_\_\_\_  
William M. Grodnick, City Attorney

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Resolution was adopted by a 6-0-1 vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Hernandez, and Yedra voting "Yes" and Councilmember Gonzalez absent.

AMENDMENT NUMBER ONE TO JOINT PARTICIPATION AGREEMENT FOR  
THE REVERSE OSMOSIS WATER TREATMENT PLANT BETWEEN CITY OF  
HIALEAH AND MIAMI-DADE COUNTY

THIS AMENDMENT NUMBER ONE TO JOINT PARTICIPATION AGREEMENT FOR THE REVERSE OSMOSIS WATER TREATMENT PLANT BETWEEN CITY OF HIALEAH AND MIAMI-DADE COUNTY, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the City of Hialeah, hereinafter referred to as the "City", a municipal corporation organized and existing under the laws of the State of Florida, and Miami-Dade County, hereinafter referred to as the "County", a political subdivision of the State of Florida.

WITNESSETH:

WHEREAS, on December 27, 2007, the parties entered into a Joint Participation Agreement ("JPA") for the construction of a 10 million gallons per day (mgd) Reverse Osmosis Water Treatment Plant that may be expanded to 17.5 mgd to serve future water supply needs in the City's annexation area and the Miami-Dade Water and Sewer Department's (MDWASD) service area, including future needs of wholesale customers; and

WHEREAS, the JPA provides that the County shall contribute and pay for 50% of the planning, design and construction and construction management costs for the water treatment plant, in an amount not to exceed \$80 million; and

WHEREAS, the County owns property described in Exhibit "A" attached hereto which has been identified for use as the location of the physical plant, parking areas, landscaped areas, green spaces, right-of-ways, stormwater retention areas, wellfields, storage tanks, security facilities and other connected uses for the Water Treatment Plant; and

WHEREAS, the County desires to convey the subject property to the City and receive a credit for the fair market value of the subject property that will be applied towards the County's contribution to the design and construction costs; and

WHEREAS, the City desires to obtain the subject property for use as the location of the physical plant, parking areas, landscaped areas, green spaces, right-of-ways, stormwater retention areas, wellfields, storage tanks, security facilities and other connected uses for the Water Treatment Plant.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto consent to and agree that the above recitations are true and further covenant agree to the following amendment to the existing agreement.

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Amendment Number One to Joint Participation Agreement ROWTP  
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1. The second paragraph of Section 4 of the JPA is hereby amended to read:

The County shall receive a credit for the land value of the land being conveyed by the County to the City that will be provided for the location of the WTP and its related or connected uses, minus 10 feet for right-of-way for the construction of NW 97 Avenue, minus 55 feet for right-of-way for the construction of NW 107 Avenue and minus 80 feet for right-of-way for the construction of NW 102 Avenue, as part of the County's contribution to the design and construction costs. To the extent that the City, upon the transfer of the land to the City, is liable for a wetlands mitigation payment, each party shall pay 50% of the amount of such payment. The City shall also receive a credit towards its contribution for administrative costs and financing costs as part of the City contribution to the planning, design and construction costs. The County shall also receive a credit towards its contribution for its financing costs as part of the County's contribution to the planning, design and construction costs. Additional funds that exceed the total design and construction estimate of \$160 million and cost overruns shall be shared equally by the City and the County. If the City determines that design and construction of the WTP will or will likely require a County contribution in excess of \$80 million, the City shall advise the County of same in writing, within 30 calendar days of such determination. The City and the County acknowledge that the \$160 million estimate for the design and construction of the WTP does not include additional capital costs for the procurement of land for and the construction of additional well-fields for Phase II and III, if necessary. The City and the County shall share equally in these additional expenses, if necessary. In the event, that either the City or the County secure grant to design or construct the WTP, said grants shall be applied to the overall construction of the WTP, and the contribution required from each party shall be accordingly equally adjusted.

2. The second sentence of Section 5 is hereby amended to read:

The County shall provide incremental payments as set forth in the Operating Agreement with the Contractor, and shall provide the balance of the \$80 million contribution, if any, at the time of the commencement of operations of the WTP at Phase I.

3. All other provisions not otherwise amended herein shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first written above.

Attest:

**THE CITY OF HIALEAH, FLORIDA**

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor

(SEAL)

Approved as to form and correctness:

\_\_\_\_\_  
William M. Grodnick  
City Attorney

Attest:  
Harvey Ruvin, Clerk

**MIAMI-DADE COUNTY**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mayor

(SEAL)

Approved as to form and correctness:

\_\_\_\_\_  
Henry N. Gillman  
Assistant County Attorney